R590. Insurance, Administration. *(Effective 11-18-08)*
R590-157. Surplus Lines Insurance Premium Tax and Stamping Fee.
R590-157-1. Authority.
This rule is promulgated by the commissioner pursuant to Subsections:
(1) 31A-3-303(2) which requires the commissioner by rule to prescribe accounting and reporting forms and procedures to be used in calculating and paying the surplus lines premium tax; and
(2) 31A-15-103(11)(d) which requires the commissioner by rule to specify the stamping fee amount and how it is to be collected.

R590-157-2. Purpose and Scope.
A. The purposes of this rule are to prescribe:
(1) the amount of the stamping fee and;
(2) the accounting and reporting forms and procedures to be used in calculating surplus lines premium taxes and stamping fees; and.
(3) the authorized entities to examine the transaction and collect and receive the tax and fee.
B. This rule applies to:
(1) insurers, surplus lines producers, and policyholders who are jointly and severally liable for the payment of the premium taxes and stamping fee;
(2) the advisory organization authorized to examine surplus transactions; and
(3) the commissioner's authorized agent to collect the stamping fee and premium tax and remit the premium tax to the commissioner.

R590-157-3. Definitions.
For the purpose of this rule the commissioner adopts the definitions set forth in Section 31A-1-301, and the following:
A. "Courtesy filing" means a surplus lines policy filing done by a resident surplus lines producer on behalf of a resident or non-resident producer whose licensure does not include a surplus lines line of authority.
B. "Courtesy filing fee" means a fee charged by the resident surplus lines producer for doing a courtesy filing for a resident or non-resident producer whose licensure does not include a surplus lines line of authority.
C. "Stamping fee" means a percentage of policy premium payable for the examination of a surplus lines transaction as required in Subsection 31A-15-103(11).
D. "Surplus Line Association" or "Association" means the Surplus Lines Association of Utah.
E. "Surplus lines producer" means a person licensed under Subsection 31A-23a-106(1)(i) to place insurance with eligible unauthorized insurers in accordance with Section 31A-15-103.
F. "Surplus lines insurer" means an unauthorized foreign or alien insurer subject to the limitations and requirements of Section 31A-15-103, doing business in this state through surplus lines producers, and included on the commissioner's "recognized"

list.
G. "Surplus lines premium" means the monetary consideration for an insurance policy procured from an unauthorized insurer, and includes policy fees, membership fees, required contributions, or monetary consideration, however designated.
H. "Surplus lines premium tax" means, as prescribed by Section 31A-3-301, a tax of 4-1/4% of gross surplus lines premiums, less 4-1/4% of return premiums paid to insureds by reason of policy cancellations or premium reductions.
I. "Surplus lines transaction" means the placement with a surplus lines insurer of an insurance policy or certificate of insurance. It also means any cancellation, endorsement, audit, or other adjustment to the insurance policy that affects the premium.

R590-157-4. Stamping Fee Amounts.
A. The surplus lines stamping fee is .15 of 1% of the policy premium payable for the examination of a surplus lines transaction as required in Subsection 31A-15-103(11)(d).
B. Late surplus lines stamping fee payments may be subject to late fees of 25% of the stamping fee due plus 1 1/2% per month from the time of default until full payment of the fee.
C. A courtesy filing fee is not included as surplus lines premium for the purpose of computing taxes and stamping fees.

R590-157-5. Authorized Agency.
A. The commissioner hereby authorizes the Surplus Line Association of Utah to act as his agent for:
(1) collecting and remitting the premium tax imposed by Section 31A-3-301 on insurance transactions described in Sections 31A-15-103, 31A-15-104, and 31A-15-106;
(2) examining surplus lines transactions under Section 31A-15-111; and
(3) collecting the stamping fee authorized under Section 31A-15-103(11).
B. The Surplus Line Association shall remit all premium taxes it collects in accordance with the procedures of Section 6.

R590-157-6. Accounting Procedures.
A. Within 60 days of the effective date of a surplus lines transaction, the surplus lines producer must file with the Surplus Line Association a copy of the policy, binder, certificate, endorsement, or other documentation sufficient to identify the subject of the insurance; the coverage, conditions, and term of insurance; the type of transaction; the effective date; the premium charged; the premium taxes payable; the name and address of the policyholder and the insurer.
B. The Surplus Line Association may prescribe the forms and procedures to be used by surplus lines producers in fulfilling Section R590-157-5.
C. The Surplus Line Association shall prepare a monthly statement of surplus lines transactions reported during the preceding 30 days for each surplus lines producer. This statement shall list the transactions and premium amounts reported, the surplus lines premium taxes due under 31A-3-301, and the stamping

fee due under Subsection 31A-15-103(11)(d).
   D.   The monthly statement shall be mailed to the surplus lines producers by the 5th day of each month.
   E.   By the 25th day of each month the surplus lines producer shall remit payment in full to the Surplus Line Association amounts due shown on the monthly statement. Premium taxes and stamping fees shall be held in trust by the surplus lines producer until remitted to the Surplus Lines Association.
   F.   Within three days of the date received, the Surplus Line Association shall deposit in a qualified depository approved by the Office of the State Treasurer, for the credit of the Utah Insurance Department, all funds received as payment of the surplus lines premium tax.
   G.   For tax credits for return premiums, which are not offset by charges in the monthly statement, the Surplus Line Association shall submit a request for payment to the Insurance Department. A reimbursement will be issued to the designated person by the Insurance Department pursuant to the Division of Finance's policies and procedures.
   H.   The Surplus Line Association shall prepare the following reports for the benefit of the commissioner.
   (1)   A monthly report shall be prepared listing the surplus lines producers reporting premiums written during the month and the amount of the premiums, taxes and fees reported. The report shall also list the names of surplus lines insurers and the amount of written premium attributed to them for the month. This report shall be submitted by the 15th of the subsequent month.
   (2)   An annual report shall be prepared on the basis of both surplus lines producers and surplus lines insurers and shall list all premiums reported and taxes paid during the previous calendar year. This report shall be submitted to the commissioner by January 31 of each year.
   (3) An annual financial report including income and expense and balance sheet for the Surplus Lines Association shall be submitted to the commissioner within 30 days of the end of the Association's fiscal year.

R590-157-7. Penalties.
A person found to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.

R590-157-8. Enforcement Date.
   The commissioner will begin enforcing the revised provision of this rule effective January 1, 2009.

R590-157-9. Severability.
   If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

KEY: insurance fee, taxes
Date of Enactment or Last Substantive Amendment: 2008
Notice of Continuation: January 10, 2008

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-3-303; 31A-15-103